

NATIONAL RESEARCH COUNCIL

COMMISSION ON LIFE SCIENCES

2101 Constitution Avenue Washington, D.C. 20418

1991 JUL 29 PM 4

EXECUTIVE DIRECTOR

July 25, 1991

Dr. Paul L. Ziemer (EH-1)
Assistant Secretary
Environment, Safety & Health
U.S. Department of Energy
Washington, D.C. 20585

Dear Dr. Ziemer:

In response to your request for assistance in evaluating radiological conditions in the Marshall Islands, the National Academy of Sciences (NAS) is currently engaged in the process of developing a formal proposal to undertake such evaluations. It is expected that the proposal will include a review of the sampling methods, analytical techniques, models and procedures used by the Department of Energy (DoE) in making its determinations concerning the resettlement of islands in the Rongelap Atoll and other radiological problems that may be associated with the Marshall Islands. However, a problem has arisen that needs to be addressed before we can proceed.

A request for approval of this proposed activity to be conducted under the auspices of the Commission on Life Sciences' Board on Radiation Effects Research has been submitted to and considered by the Executive Committee of the Governing Board of the National Research Council (NRC), the operating arm of the NAS. That Board has expressed concern about potential legal liability that might arise in the course of this proposed study and would like to receive some assurances from the DoE that the NAS, its officers and employees, its standing boards which would have oversight for the study, and all of its committee members and other individuals appointed to assist in the evaluation would be indemnified from any causes of actions, claims for damages, or other liabilities for any bodily injury or property damage that might result from the proposed work to be conducted for DoE.

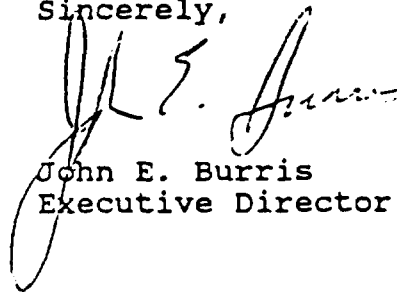
Our General Counsel, James Wright, has discussed this matter informally with representatives of both DoE's Office of General Counsel and Contracts Office, and those discussions have indicated that such indemnification might be provided under the Price-Anderson Act. For our Governing Board to proceed with the approval of this study, we need a letter from DoE which formally

addresses the protection that would be afforded to the NAS under the Price-Anderson Act (or other laws, if applicable) in connection with the proposed study.

We would particularly like a determination that any injury or property damage arising out of the proposed resettlement of the Marshall Islands and the attendant radiological condition of the Islands would be considered injury or damage arising out of a "nuclear incident" and that Price-Anderson would be available to indemnify the NAS, its committee members and others against claims as described above in connection with the proposed study. If the Price-Anderson Act is not applicable, we would need to know under what other laws, if any, the DoE could provide the requested indemnification.

We look forward to submitting a formal proposal to your office as soon as this issue is resolved.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. E. Burris", is written over the typed name and title.

John E. Burris
Executive Director